

## REMARKS

This paper is responsive to the Final Office Action of June 7, 2006. Reconsideration is respectfully requested.

### 1. Procedural Posture of the Subject Application

Prior to the present Action, no prior art rejections were outstanding. The application was merely subject to a 35 U.S.C. § 101 rejection which was readily overcome by a citation to the Office of the “Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility,” in the March 17, 2006 Response.

After withdrawal of the above 35 U.S.C. § 101 rejection the application, now in allowable form, was passed on to the “second review” unique to business method Art Units. Surprisingly, the Office Action next received for this case in allowable form was a Final Rejection, which places the Applicant in a compromised position regarding the breadth and scope of the response that can be filed. Applicant notes that while the prior art had been previously presented, it has been cast in a new light in this Final Rejection, now raising new issues which the applicant is procedurally hand-cuffed from fully addressing in the face of a looming Advisory Action for raising new issues after a Final Rejection.

For the above-reasons, Applicant respectfully requests that the “second review” Final Rejection be revised to a non-final rejection in order to provide the Applicant with sufficient leeway to fairly address the new issues raised in the cited prior art.

### 2. The Prior Art Does Not Teach “Excluding Buyers From a Sale” But Only Shows “Restricting Specific Buyers to a Sale.”

“Liquidation” states that: “Auctions...can be restricted to specific buyers or areas.” In contrast, all of pending claims 1-47 of the subject invention require a set of criteria relating to only certain “buyers that are to be denied access to goods.” Stated simply, “Liquidation” is the antithesis of the subject invention; the exact opposite. While “Liquidation” allows its sales only to specific buyers, thus drastically limiting the population of the available buyers,

the subject invention denies access to only a limited group of specific buyers, allowing the rest of the world to participate in this commerce.

The citation of pages from dead websites have limited precedential value, as the underlying functional website may never have existed and was thus “vapor ware” for which the web pages cited were no more than advertising hype. The above is important to consider in a case such as the present where the mere sentence - long snippets that serve as prior art “teachings” are extremely ambiguous and, more importantly, teach nothing concerning the enablement of the prior art invention. An example of the above limitation of the cited prior art relates to the database required in claim 10. A database not being present in the lack of disclosure in the prior art, the Office Action appears to dismiss this database as a necessary claim limitation at page 7 of the Office Action where it is summarily concluded that the use of a database would be inherently obvious.

Of greatest relevance is that none of the prior art teach **excluding buyers from a sale**. “FME” is entirely irrelevant on this point. “Liquidation” provides an ambiguous one sentence marketing line on page 30 stating:

“Auctions...can be **restricted to specific** buyers or areas...”

The above single sentence in “Liquidation” is the basis for the entire relevant rejection in the “second review” Final Office Action. There is no enablement of how the above restrictions are accomplished, no details as to the underlying infrastructure that implements these restrictions, and no examples of the results of these restrictions. Hence, Applicant respectfully submits that the above-citation of “Liquidation” is not a sufficient disclosure to satisfy a 35 U.S.C. § 103 rejection.

Of equal importance, even if the above citation is deemed sufficient, this single “Liquidation” sentence still does not teach the subject invention. To reiterate, “Liquidation” states that: “Auctions...can be **restricted to specific** buyers or areas.” In contrast, all of pending claims 1-47 of the subject invention require a set of criteria relating to specific, select “**buyers that are to be denied access to goods.**” Stated simply, “Liquidation” is the antithesis

of the subject invention; the exact opposite. While "Liquidation" limits its sales base because it allows its sales only to specific buyers, the subject invention denies access to only a limited group of specific buyers to allow the broadest sales base. As a practical matter, "Liquidation" provides a far more limited buyer base by limiting sales to only specific buyers, while the subject invention allows sales to the entire world of buyers, but for a few selected buyers.

Respectfully submitted,

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Atty. Docket No. LIQ01 003

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of:

Daniel Wise

Application No.: 09/855,269

Filed: May 15, 2001

For: **MATCHING SYSTEM**

**CERTIFICATE OF MAILING UNDER 37 CFR 1.10**

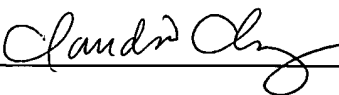
I hereby certify that this correspondence and the documents listed below are being deposited with the United States Postal Service with sufficient postage as Express Mail (**Express Mail Label No.: EQ398103610US**) in an envelope addressed to:

Mail Stop RCE  
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P.O. Box 1450  
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on December 7, 2006  
Date

Documents included:

- Request for Continued Examination (RCE) Transmittal- SB/30 (1 pg.)
- Fee Transmittal -SB/17 (1 pg.)
- Petition for Extension of Time Under 37 CFR 1.136(a) - 3 month Extension (1 pg.)
- Response to Final Office Action (14 pgs.)
- Check No. 029170 in the amount of \$905.00
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